



SEXUAL AND GENDER-BASED HARASSMENT, SEXUAL VIOLENCE,
RELATIONSHIP AND INTERPERSONAL VIOLENCE, AND STALKING POLICY
TITLE IX POLICY

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STATEMENT OF PURPOSE

The University is committed to maintaining a learning and working environment that is free from discrimination based on sex in accordance with Title IX of the Higher Education Amendments of 1972 (“Title IX”), which prohibits discrimination on the basis of sex in education programs or activities; Title VII of the Civil Rights Act of 1964 (“Title VII”), which prohibits sex discrimination in employment; and the Campus Sexual Violence Elimination Act (“SaVE Act”), Violence Against Women Act (“VAWA”), and Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Act. The University will promptly discipline any individuals within its control who violate this Policy.

Accordingly, Avila University urges an individual to make a formal report if that individual is the victim of sexual misconduct or harassment, has knowledge of another person being the victim of sexual misconduct or harassment, or believes in good faith that they have witnessed a possible warning sign of sexual misconduct or harassment. A report of sexual misconduct or harassment will be dealt with promptly. Confidentiality will be maintained to the greatest extent possible.

Further, Avila University is committed to non-discrimination and equal opportunity to its students including, but not limited to, recruitment, admissions, financial aid, educational policies, placement services, housing, athletics, sponsorship, conduct of co-curricular activities, and other University administered programs and services.

These policies are to be administered without regard to sex, race, religion, age, color, sexual orientation, gender identity, disability, or national origin.

The University operates from a value system in which caring, sharing and respect are paramount. While we value diversity and seek to serve all segments of society, we do not aspire to be only a reflection of society. We seek higher goals, with higher values, and higher standards. This is the community that you have chosen; one that expects more from itself, more from one another, and more from you.

APPLICABILITY AND SCOPE

This Policy applies to all University administrators, faculty, staff, students, contractors, outside vendors, and other third parties within the University’s control, including visitors, invitees, and applicants for admission or employment. It applies to conduct that occurs on University owned or controlled premises, in an education program or activity (including, but not limited to, admissions, employment, academics, athletics, housing, and student services) including University sponsored or supported events, buildings owned or controlled by student organizations officially recognized by the University, or off campus when the conduct potentially affects a person’s education or employment with the University or potentially poses a risk of harm to members of the University community. It also applies regardless of the gender, gender identity or sexual orientation of the parties.

This policy does not apply to Sexual Harassment that occurs off-campus, in a private setting, and outside the scope of the Universities' Education Program and Activities; such Sexual Misconduct may be prohibited by the Student Code of Conduct if committed by a student, the Faculty and Staff Handbook if committed by an employee, or other University policies and standards if committed by an employee.

DEFINITIONS

Coercion:

The use of pressure to compel another individual to initiate or continue sexual activity against an individual's will. Coercion can include a wide range of behaviors, including psychological or emotional pressure, physical or emotional threats, intimidation, manipulation, or blackmail that causes the person to engage in unwelcome sexual activity. A person's words or conduct are sufficient to constitute coercion if they eliminate a reasonable person's freedom of will and ability to choose whether or not to engage in sexual activity. Examples of coercion include but are not limited to threatening to "out" someone based on sexual orientation, gender identity, or gender expression; threatening to harm oneself if the other party does not engage in the sexual activity; and threatening to expose someone's prior sexual activity to another person.

Complainant:

The individual who is alleged to be the victim of any prohibited conduct under the Policy.

Consent:

Consent is a verbal agreement or action that must be active, voluntary, informed, and mutual. Consent or lack of consent may be expressed or implied. The legal age to give sexual consent in the state of Missouri is 17.

Each participant in a sexual encounter must obtain consent for all sexual activities. Consent to one form of sexual activity does not constitute consent to engage in all forms of sexual activity.

Consent may be withdrawn by either party at any time. Withdrawal of consent should be outwardly demonstrated by words or actions that indicate a desire to end sexual activity. Once withdrawal of consent has been expressed, sexual activity must cease.

Consent to engage in a sexual encounter with one person does not imply consent to engage in a sexual encounter with another.

Consent consists of an outward demonstration indicating that an individual has freely chosen to engage in sexual activity. Consent may not be inferred from silence, passivity, lack of resistance or lack of response alone. A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.

Individuals with a previous or current intimate relationship do not automatically give either initial or

continued consent to sexual activity. Even in the context of a relationship, there must be mutually understandable communication that indicates a willingness to engage in sexual activity.

Consent cannot be given by a person who lacks the mental capacity to authorize the sexual encounter/activities and such mental incapacity is manifest or known to the individual initiating the act

Consent cannot be given by a person who by reason of youth, mental disease or defect, or incapacitated, is clearly unable or known by the individual initiating the act to be unable to make a reasonable judgment as to the nature or harmfulness of the sexual encounter/activities; or Consent cannot be induced by force, duress, or deception.

Consent cannot be procured by Coercion. Coercion is verbal and/or physical conduct, including manipulation, intimidation, unwanted contact, and express or implied threats of physical, emotional, or other harm, that would reasonably place an individual in fear of immediate or future harm and that is employed to compel someone to engage in sexual contact. Force is the use or threat of physical violence or intimidation to overcome an individual's freedom of will to choose whether or not to participate in sexual contact.

Dating Violence:

Dating Violence is defined by Violence Against Women Reauthorization Act (VAWA) as "violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship would be determined based on the Complainant's statement and with consideration of the length of the relationship, the type of relationship, the frequency of interaction between the persons involved in the relationship."

Examples of this type of behavior include, but are not limited to: (1) Verbal—threatens the partner or someone/something the partner cares about; (2) Emotional—jealousy, trying to control the partner's activities or behaviors, calling or messaging frequently to "keep tabs" on the partner, telling the partner how to dress, stalking or any behavior that elicits fear in the partner; (3) Physical—hitting, slapping, punching, shoving, pinching, kicking, hair pulling, strangulation, restraining biting scratching; (4) Sexual—unwanted touching or kissing, forcing or coercing the partner to have sex or engage in any unwanted sexual activity, not allowing the partner to use birth control.

Domestic Violence:

Domestic Violence is defined by VAWA as "...violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse..."

Examples of domestic violence include: (1) Causing or attempting to cause physical or mental harm to a family or household member; (2) Placing a family or household member in fear of physical or mental harm;

(3) Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, or duress; (4) An act taken toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

Domestic violence also is viewed as a learned pattern of physical, verbal, sexual and/or emotional behaviors in which one person in a relationship uses force and intimidation to dominate or control the other person.

Education Program or Activity:

A University education program or activity means all of the operations of the University in any locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the Sexual Harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the University.

Hostile Environment Harassment:

A single or isolated incident of sexual harassment based on sexual harassment alone may create a hostile environment if the incident is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to create a hostile environment, particularly if the harassment is physical. The determination of whether an environment is “hostile” must be based on all the circumstances. These circumstances could include, but are not limited to:

The frequency of the speech or conduct;

The nature and severity of the speech or conduct;

Whether the conduct was physically threatening;

Whether the speech or conduct was humiliating;

The effect of the speech or conduct on the individual’s’ mental and/or emotional state; Whether the speech or conduct was directed at more than one person;

Whether the speech or conduct arose in the context of other discriminatory conduct;

Whether the speech or conduct unreasonably interfered with the individual’s educational opportunities or performance (including study abroad), college-controlled living environment, or work opportunities or performance;

Whether a statement is a mere utterance of an epithet which engenders offense in an employee or a student or offends by mere discourtesy or rudeness, micro-aggression; and/or

Whether the speech or conduct deserves the protections of academic freedom.

Examples of conduct that may constitute sexual harassment as defined above may include severe, persistent or pervasive pattern of unwelcome conduct that includes one or more of the following:

Physical conduct:

Unwelcome touching, sexual/physical assault, impeding, restraining, or blocking movements; Unwanted sexual advances within the employment or academic context;

Verbal conduct:

Making or using derogatory comments, epithets, slurs or humor;

Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letter, notes or invitations;

Objectively offensive comments of a sexual nature, including persistent or pervasive sexually explicit statements, questions, jokes, or anecdotes;

Visual or non-verbal conduct:

Leering, making sexual gestures, displaying of suggestive objects or pictures, cartoons or posters in a public space or forum;

Severe, persistent, or pervasive visual displays of suggestive, erotic, or degrading sexually oriented images that are not pedagogically appropriate.

Incapacitation:

An individual who is incapacitated lacks the ability to make informed judgments and cannot consent to sexual contact. Incapacitation is the inability, temporarily or permanently, to give consent because an individual is mentally and/or physically helpless, asleep, unconscious, or unaware that sexual activity is occurring. Mentally helpless means a person is rendered temporarily incapable of appraising or controlling one's own conduct. Physically helpless means a person is physically unable to verbally or otherwise communicate consent or unwillingness to an act. Where alcohol or other drugs are involved, incapacitation is a state beyond impairment or intoxication. Where alcohol or other drugs are involved, evaluating incapacitation requires an assessment of how the consumption of alcohol and/or drugs affects a person's: decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness. The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a reasonable person.

Other Inappropriate Sexual Conduct:

Conduct on the basis of sex that does not meet the definition of Sexual Harassment under Title IX, but is considered inappropriate and a violation of other University policy, includes:

Verbal conduct (including through electronic means) constituting unwanted statements of a sexual nature, intentionally directed to a person or group of people that are objectively offensive to a reasonable person and also so severe or pervasive that they created a Hostile Environment. The type of verbal conduct that violates this policy may include:

Unwelcome sexual advances (including explicit or implicit proposition(s) of sexual contact or activity);
Requests for sexual favors (including overt or subtle pressure);

Gratuitous comments about an individual's sexual activities or speculation about an individual's sexual experiences;

Gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
Persistent, unwanted sexual or romantic attention;

Exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials; or Deliberate, repeated humiliation or intimidation.

Physical conduct that does not fall within the Title IX definition of Sexual Harassment, but which violates the other University policy, includes:

Sexual exploitation;

Unwelcome intentional touching of a sexual nature;

Deliberate physical interference with or restriction of movement; or

Sexual violence.

Participants:

The term "participants" includes the Complainant, Respondent, and any witnesses.

Parties:

The term "parties" refers to the "Complainant" and the "Respondent" under this policy.

Preponderance of the Evidence:

The greater weight of the credible evidence. Preponderance of the evidence is the standard for determining allegations of prohibited conduct under this Policy. This standard is satisfied if the action is deemed more likely to have occurred than not.

Privacy:

For the purposes of this policy, privacy generally means that information related to a report of misconduct will be shared with a limited circle of individuals who “need to know” in order to assist in the review, investigation, and findings, and related issues. Individuals who are routinely involved in Avila University’s Title IX response receive specific training and guidance about safeguarding private information in accordance with applicable laws.

Sexual Assault:

VAWA defines sexual assault as “an offense classified as a forcible or non-forcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.” Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Examples of sexual assault under this policy include, but are not limited to, the following behaviors, however slight, when consent is not present:

Sexual intercourse (anal, oral, or vaginal). Intercourse, however slight, meaning vaginal penetration by a penis, object, tongue, or finger; anal penetration by a penis, object, tongue, or finger; or oral (mouth to genital contact or genital to mouth contact).

Intentional contact with the breasts, buttocks, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts.

Rape – Having carnal knowledge of a person, without consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity. There is “carnal knowledge” if there is the slightest penetration of the vagina or penis by the sex organ of the other person. Attempted rape is included.

Sodomy – Oral or anal sexual intercourse with another person without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Sexual assault with an object – Using an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent

mental or physical incapacity. An “object” or “instrument” is anything used by the perpetrator other than the perpetrator’s genitalia.

Fondling – Touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Incest – Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

Statutory Rape- In Missouri, a person commits the crime of second-degree statutory rape or sodomy by engaging in sexual intercourse with a person under the age of 17 when the defendant is over the age of 21. No matter what the defendant’s age, it is a crime (first degree statutory rape or sodomy) to engage in sexual intercourse or sodomy with a child under the age of 14.

Sexual Exploitation:

Sexual Exploitation occurs when an individual takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited, and that behavior does not otherwise constitute one of other sexual misconduct offenses.

Voyeurism (such as watching or taking pictures, videos, or audio recording of another person in a state of undress or of another person engaging in a sexual act without the consent of all parties).

Exposing portions of one’s body in such a manner that it may be seen by someone who reasonably could be offended.

Disseminating, streaming, sharing, or posting pictures or video of another in a state of undress or of a sexual nature without the person’s consent (i.e. revenge porn).

Prostituting or trafficking another person.

Sexual Harassment:

Conduct on the basis of sex that satisfies one or more of the following:

Quid pro quo: An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual’s participation in unwelcome sexual conduct;

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University’s education program or activity;

or “Sexual Assault,” “Dating Violence,” “Domestic Violence,” or “Stalking” as defined in the Violence Against Women Act.

This definition is not evaluated for severity, pervasiveness, offensiveness, or denial of equal educational access, because such conduct is sufficiently serious to deprive a person of equal access. Therefore, any instance of quid pro quo sexual harassment and any instance of Sexual Assault, Dating Violence, Domestic Violence, and Stalking are considered Sexual Harassment under this Policy.

Sexual Misconduct — Broadly defined to encompass sex discrimination, sexual harassment, sexual assault, domestic violence, dating violence, stalking, and other Inappropriate Sexual Conduct.

Sexual Violence — Physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent. The term includes, but is not limited to, rape, sexual assault, sexual battery, sexual coercion, sexual abuse, indecency with a child, and/or aggravated sexual assault.

Stalking — Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress. For the purposes of this definition:

Course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means,

follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person’s property.

Reasonable person means a reasonable person under similar circumstances.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

REPORTING

Reporting Sexual Misconduct incidents informs the University of the Incident, which allows the University to provide Supportive Measures to the Complainant and does not necessarily result in the initiation of the Complaint Resolution Process. All Complainants who report incidents of Sexual Misconduct will be offered individualized Supportive Measures.

Any person may report Sexual Misconduct, Retaliation, or other conduct prohibited under this Policy to the Title IX Coordinator, whether or not the person reporting is the person alleged to be the victim of the incident, and it can be a verbal or written report to the one of the Title IX Co-Coordinators:

Dean of Students

Curtis Burton

Phone number: (816) 501-2465

Email: curtis.burton@avila.edu

Director of Human Resources

Jody Mitchell

Phone number: (816) 501-3618

Email: jody.mitchell@avila.edu

Filing a Formal Complaint

The Complainant may file a Formal Complaint with the Title IX Coordinator. A Formal Complaint must be filed if a Complainant wishes to initiate the Complaint Resolution Process.

Amnesty

At times, an individual(s) may be hesitant to report the occurrence of misconduct to Avila officials because they are concerned that they themselves, or a witness to misconduct, may be found responsible for other policy violations, such as alcohol or drug violations. Although violations of University policy are not condoned, the importance of addressing the alleged misconduct takes priority. Therefore, Avila will not refer an individual or a witness who makes a report of misconduct to the student conduct system as a responsible party for any other violations that may have occurred in connection with the reported allegations of misconduct.

Anonymity

You may make an anonymous report by telephone through the Avila's Campus Conduct Hotline (866) 943-5787. Your decision to remain anonymous, however, may greatly limit the University's ability to stop the alleged conduct, investigate, or act against parties accused of violating this Policy.

Timeliness of Reporting

Institutional Officers are required to report known incidents of and/or information regarding Sexual Misconduct promptly to the Title IX Coordinator. For others in the University community, you are strongly encouraged to report Sexual Misconduct, Retaliation, and any other conduct prohibited under this Policy as soon as you become aware of such conduct.

Reporting to Campus Safety or Law Enforcement

You may also file a report with Campus Safety at (816) 985-6079 or to the Kansas City Police Department (816) 234-5550 (non-emergency) or 911 (emergency).

CONFIDENTIAL SUPPORT AND RESOURCES

Confidentiality

Students who would like to discuss their situations in a confidential environment, and share or seek information about a sexual misconduct, dating/domestic violence, or stalking issue without making a report, have a number of options. You can discuss an incident in confidence by using the confidential resources. To view options of confidential Supportive Measures on and off campus please view [Avila's Resource and Referral Options worksheet](#). Students may discuss an incident with Confidential Employees or an off-campus resource (e.g., rape crisis center, doctor, psychologist, clergy person, etc.) without concern that the person's identity will be reported to the Title IX Office. Employees may seek assistance from the Employee Assistance Program, their own personal health care provider, the clergy person of their choice, or an off-campus rape crisis resource without concern that the person's identity will be reported to the Title IX Office.

When consulting University resources, all parties should be aware of confidentiality, privacy, and mandatory reporting to make informed choices. At Avila University, some resources can offer confidentiality, sharing options and advice without any obligation to tell anyone unless Complainant prefers it. Other resources are expressly there to report crimes and policy violations and will act when the incident is reported to them. Most University resources fall in the middle of these two extremes. Neither the University nor the law requires them to divulge private information that is shared with them except in certain circumstances, some of which are described below. A Complainant may seek assistance from these University officials without starting a formal process that is beyond the Complainant's control, or violates her/his privacy.

Report Confidentially

If one desires that details of the incident be kept confidential, they should speak with our on campus mental health counselor or off-campus rape crisis resources who can maintain confidentiality. For students outside the KC metropolitan area, please dial 211 or connect online with 211 for United Way Resources in a particular area. The campus counselor is available to students help free of charge, and they will provide off-campus resources specializing in services important for the complainant and respondent.

The University counselor will not report incidents to the University for Investigation without consent. However, when the situation involves a crime, they will notify the appropriate University personnel for the sole reason of including the crime in the University's annual crime statistics disclosure. The Complainant's name will not be divulged in this situation. The University counselor also will notify appropriate University personnel if the incident suggests a Complainant or Respondent poses a danger to themselves or others.

Advice may be sought from certain resources who are not required to tell anyone else any private, personally identifiable information unless there is cause for fear of safety or the safety of others. These are individuals who the University has not specifically designated as “persons with authority” for purposes of putting the institution on notice or “Responsible Employee” for whom mandatory reporting is required, other than in the stated limited circumstances. Recommended University staff include:

Counseling and Career Services 816-501-3767, or Campus Ministry 816-501-2423

If unsure of a staff member’s duties and ability to maintain privacy, ask them before speaking to them. They will be able to provide the relevant privacy information, and help make decisions about who can help best. If personally identifiable information is shared, it will only be shared as necessary with as few people as possible, and all efforts will be made for privacy protection.

Confidential and Anonymous Supportive Measures

Confidential and Anonymous Resources can maintain the confidentiality of a Complainant’s disclosures and will not share any information with Avila University. If the victim does not want to pursue action within the University system or the criminal justice system at this time, they/they may still want to consider having a confidential or anonymous report made. The purpose of a confidential or anonymous report is to comply with the victim’s wish to keep the matter private while taking steps to ensure future safety for the victim and others.

Counseling and Career Services

Phone number: (816) 501-3767

Email: CounselingandCareerServices@avila.edu

Campus Ministry

Phone number: (816) 501-2423

Email: CampusMinistry@avila.edu

Anonymous Reporting

Campus Conduct Hotline: (866) 943-5787

ROLES AND RESPONSIBILITIES

Institutional Officials

While able to maintain an individual’s privacy, Institutional Officials are required to immediately share all known details of incidents of misconduct with the Title IX Coordinator.

An Institutional Official (IO) are those designated employees in a leadership or supervisory position, or

who have significant responsibility for the welfare of Students or Employees. The

University considers IOs to be directors, deans, vice presidents, other administrators with supervisory responsibilities, campus safety, faculty, and human resources. Though they are not IOs, all other University employees are expected to report all known information concerning the incidents of Sexual Misconduct of which they become aware to the Title IX Coordinator.

Resident Assistants are expected to report all known information concerning the incidents of Sexual Misconduct of which they become aware to the Title IX Coordinator.

This list is not exhaustive; any questions about the status of an employee as an Institutional Official should be addressed to the Title IX Coordinator.

Title IX Coordinator

The Title IX Coordinator is the senior University administrator who oversees the University's compliance with Title IX and is responsible for the University's administrative response to reports and Formal Complaints of Sexual Misconduct, Retaliation, and other conduct prohibited under this Policy. The Title IX Coordinator is available to discuss the Complaint Resolution Process, coordinate Supportive Measures, explain University policies and procedures, and provide education on relevant issues. The Title IX Coordinator may designate one or more Deputy Title IX Coordinators to facilitate these responsibilities. Any member of the University community may contact the Title IX Coordinator with questions.

The Title IX Co-Coordinators can be contacted by telephone, email, or in person during regular office hours:

Dean of Students

Curtis Burton

Phone number: (816) 501-2465

Email: curtis.burton@avila.edu

Director of Human Resources

Jody Mitchell

Phone number: (816) 501-3618

Email: jody.mitchell@avila.edu

Investigator(s)

The University will ensure that Formal Complaints are properly investigated under this Policy by investigators assigned to the Formal Complaint. The investigators are neutral and impartial fact-finders, and gather evidence during the investigation. The investigators are responsible for completing an investigation report at the conclusion of the investigation. When designated, the Title IX Deputy

Coordinators may supervise and advise the Title IX investigators when conducting investigations and update the Title IX Coordinator as necessary to ensure compliance with Title IX.

Hearing Officer(s)

A Hearing Officer(s) is responsible for conducting the Title IX Complaint Resolution Process hearing in an orderly manner, controlling the conduct of all participants and attendees of the hearing, and rendering a written determination regarding responsibility with respect to the Respondent's alleged conduct charges in an impartial, neutral, and objective manner.

Advisors

An advisor a person chosen by a party or appointed by the University to accompany the party to meetings related to the Complaint Resolution Process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

Appeals Hearing Officer

A single Appeal decision-maker will be designated who has not been involved in any way in the Complaint Resolution Process previously.

The University retains discretion to retain and appoint suitably qualified persons who are not University employees to fulfill any function of the University under this policy, including, but not limited to, Title IX Coordinator, investigator, hearing officer, administrative officer, informal resolution officer, and appeals officer.

The University also retains discretion to appoint two or more persons to jointly fulfill the role of investigator, hearing officer, administrative officer, informal resolution officer, and/or appeals officer.

The functions assigned to a given University official under this policy, including but not limited to the functions assigned to the Title IX Coordinator, investigator, hearing officer, administrative officer, informal resolution officer, and appeals officer, may, in the University's discretion, be delegated by such University official to any suitably qualified individual and such delegation may be recalled by the University at any time.

PARTIES' RIGHTS: CONFIDENTIALITY, REQUESTS TO NOT INVESTIGATE, AND REQUESTS TO DISMISS FORMAL COMPLAINTS

The University has great respect for the privacy of the parties identified in a report or Formal Complaint. Under state law, however, Institutional Official who receive information of alleged Sexual Misconduct must share that information with the Title IX Coordinator. As such, the University may need to act to maintain campus safety and must determine whether to investigate further, regardless of the Complainant's request for confidentiality or request to not investigate a report received by the Title IX Coordinator.

In making determinations regarding requests for confidentiality, Complainants' requests to not investigate, Complainants' requests to dismiss Formal Complaints, and/or requests to not disclose identifying information to Respondents, the Title IX Coordinator must deliberately weigh the rights, interests, and safety of the Complainant, the Respondent, and the campus community. Factors the University must consider when determining whether to investigate an alleged incident of Sexual Misconduct include, but are not limited to:

The seriousness of the alleged incident;

Whether the University has received other reports of alleged Sexual Misconduct by the alleged Respondent;

Whether the alleged incident poses a risk of harm to others; and

Any other factors the University determines relevant.

If the Complainant requests in writing that the University not investigate a report, the University must inform the Complainant of the decision whether or not to investigate.

If the University dismisses a Formal Complaint, the University must provide the Complainant and Respondent a written notice of the dismissal and the reason(s) for the dismissal.

In the course of the Complaint Resolution Process, the University may share information only as necessary with people who need to know in compliance with the law, which may include but is not limited to the investigators, witnesses, Complainant, Respondent, parties' Advisors, Hearing Officer, and the Appeals Hearing Officer—if applicable.

SUPPORTIVE MEASURES

The University will offer reasonably available individualized services, without any fee or charge, to the parties involved in a reported incident of Sexual Misconduct with or without the filing of a Formal Complaint, when applicable.

Supportive Measures may include, but are not limited to, modifications to: academic schedules, campus housing, student leadership, working situations, as well as providing academic support or making special arrangements for a leave of absence, withdrawing, or dropping classes without penalty, if requested and reasonably available. Mutual restrictions on contact between the parties may also be imposed. The University may impose such other similar measures as it deems necessary and tailored to the individualized needs of the parties.

Supportive Measures are non-disciplinary and non-punitive measures that do not unreasonably burden the other party. Any disciplinary or punitive measures may only be implemented following the conclusion of the Complaint Resolution Process, unless an emergency removal is appropriate.

The University will maintain the confidentiality of Supportive Measures provided to the parties, to the extent that maintaining such confidentiality does not impair the ability of the University to provide the Supportive Measures.

The University will treat all parties with fairness and respect in accordance with the principles of due process.

The Title IX Co-Coordinators 816-501-2465 or 816-501-3618 can assist with understanding the University policies and the Student Judicial Procedure, listen to concerns, help identify options, and refer to other Supportive Measures as needed.

The Office of Counseling and Career Services 816-501-3767 can confidentially assist in dealing with stress related to the report and work to develop strategies for healthy coping.

FORMAL COMPLAINT

To begin the Complaint Resolution Process, the Complainant must sign a Formal Complaint requesting an investigation and submit it to the Title IX Coordinator at curtis.burton@avila.edu. The Complainant must submit a written statement setting out the known details of the alleged conduct that is the subject of the Formal Complaint, including the following:

Complainant's name and contact information;

Respondent's name;

Detailed description of the alleged conduct or event that is the basis of the alleged violation under this Policy;

Date(s) and location(s) of the alleged occurrence(s);

Names of any witnesses to the alleged occurrence(s); and

The resolution sought.

The Complainant may also submit any documents or information that is relevant to the Formal Complaint.

The Title IX Coordinator may also sign a Formal Complaint against a Respondent (requesting an investigation) and in doing so will initiate the Complaint Resolution Process.

MANDATORY AND DISCRETIONARY DISMISSAL OF FORMAL COMPLAINTS

Mandatory Dismissals

Under the regulations governing the University's implementation of Title IX, the University is required to distinguish between conduct that is prohibited under Title IX and conduct that violates another University policy. The University must dismiss a Formal Complaint under Title IX if: (1) the Formal Complaint describes conduct which, even if proven true, would not satisfy the definition of Sexual Harassment under Title IX; (2) the alleged conduct did not occur in the University's education program or activity; or (3) the alleged conduct did not occur against a person in the United States. If the Formal Complaint is dismissed under Title IX, the University may still investigate the complaint for allegations under another University policy.

Discretionary Dismissals

The University may dismiss a Formal Complaint, at its discretion, under this Policy's Complaint Resolution Process for any of the following reasons:

If the Complainant submits a written request to dismiss a Formal Complaint (e.g., withdraws the Formal Complaint or any allegations therein);

If the Respondent was a University employee at the time of the incident, but is no longer employed by the University at the time the Formal Complaint is filed;

Circumstances or limited information prevent the University from completing an investigation sufficient to reach a determination as to the Formal Complaint or any allegations therein; or

The conduct alleged does not meet the definition of any prohibited conduct under this Policy.

Notice of Dismissal

If the University dismisses a Formal Complaint, the University must provide both parties a written notice of the dismissal and the reason(s) for the dismissal.

Concurrent Criminal or Civil Proceedings

The University will not, as a matter of course, delay acting on a Formal Complaint pending the outcome of a concurrent criminal or civil justice proceeding. The University has an independent duty to respond to Formal Complaints of Sexual Misconduct. At the University's discretion, the University may delay the investigation or Complaint Resolution Process for a brief period due to concurrent criminal or civil proceedings on a case-by-case basis.

Written Notice of the Formal Complaint, and Notification of University Offices Offering Assistance

After receiving a Formal Complaint, the Title IX Office will provide a written notice to the parties of the Formal Complaint and available University resources and assistance.

The written notice of the Formal Complaint will include at least the following:

Notification of the Complaint Resolution Process;

Notice of the allegations that potentially constitute prohibited conduct under this Policy, including sufficient details about the alleged conduct, including the identity of the parties, if known, and the date(s), time(s), and location(s) of alleged conduct known by the University at the time of the Formal Complaint;

Notice of the potential policy violations being investigated;

A statement that the Respondent is presumed not responsible for the alleged conduct and that the determination regarding responsibility will be made at the conclusion of the Complaint Resolution Process;

Notice that both parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review all evidence, and that the University will provide a trained advisor if either party so requests;

A statement that the parties may review evidence gathered as part of any investigation; and

Notice that knowingly making false statements or knowingly submitting false information during the Complaint Resolution Process is prohibited and subject to disciplinary action under the Student Code of Conduct or Faculty/Staff Handbook.

Informal Resolution

After the parties have been provided written notice of a Formal Complaint, each may agree, in writing, to use an informal resolution option at any point prior to reaching a determination regarding responsibility, but need not agree to informal resolution. The Informal Resolution process is not available, however, to resolve allegations that a University employee sexually harassed a student.

At any point prior to agreeing to an Informal Resolution, each party has the right to withdraw from the Informal Resolution process and resume the Complaint Resolution Process with respect to the Formal Complaint.

Informal Resolution could include, for example, a mediation process.

Informal Resolutions will be concluded within 45 days of notice to the University that the parties wish to proceed with the Informal Resolution Process. The University's receipt of such notice will "pause" the Complaint Resolution Process, including the clock for concluding that process. If the parties fail to completely resolve the allegations through an Informal Resolution, then the Complaint Resolution Process will resume where the parties left off.

INVESTIGATION AND HEARING OF THE FORMAL COMPLAINT

The Respondent will be allowed a reasonable time after receiving notice of a Formal Complaint to respond in writing and through an interview with the investigator.

The University will provide written notice to a party whose participation is invited or expected of the date, time, location, participants, and purpose of all meetings, investigative interviews, or other proceedings in the Complaint Resolution Process.

Evidence

The parties may present any information, evidence, or names of any fact or expert witnesses that may be relevant to the Formal Complaint in the course of the investigation, and may have an advisor of their choice attend any related interview, meeting, or proceeding in the Complaint Resolution Process. Advisors are not permitted to actively participate in meetings prior to the hearing. The parties may submit to the investigator any questions they would like asked of any known potential witnesses or parties.

Witness Interviews

The investigators will interview relevant and available witnesses. Neither the Complainant nor the Respondent will normally attend these interviews; however, if either one is permitted to attend, the other shall have the same right.

Investigation Timeframe

The University is committed to providing prompt, fair, and impartial investigation and resolution of reports of violations of this policy, and therefore will aim to complete the investigation of a Formal Complaint within 90 days of the filing of a Formal Complaint. The parties should be provided updates on the progress of the investigation, as needed. Extenuating circumstances may require the extension of timeframes. Extenuating circumstances may include the complexity and scope of the allegations, the number of witnesses involved, the availability of the parties or witnesses, any intervening school break or vacation, or other unforeseen circumstances. Best efforts will be made to complete the process in a timely manner by balancing principles of thoroughness and fundamental fairness with promptness.

Access to Evidence

Prior to the completion of the investigation report, the investigators will provide access to all evidence obtained (whether relevant or not) as part of the investigation to both parties (and the party's advisor, if any, upon a party's signed information release for their advisor of choice). Both parties will have 10 days to inspect, review, and respond to the evidence. All responses to the evidence must be submitted by the party in writing to the investigator. Advisors are not permitted to submit written responses to the evidence on their own or on behalf of the party they are advising. The investigators will consider all timely responses submitted by the parties.

The Investigative Report

The completed investigative report will: (a) describe each of the allegations that potentially constitute conduct prohibited under this Policy; (b) provide a procedural history of the investigation; and (c) fairly summarize all relevant evidence, participant statements, and responses to questions. The Investigator will provide contemporaneously to each of the parties and each party's advisor, if any, upon a party's signed information release for their Advisor of choice, a draft of the investigative report. The parties will then have 10 days in which to provide a written response to the draft investigative report, which the investigator will consider prior to completing the investigative report. At least 10 days prior to the date of the scheduled hearing, the investigator must provide the final investigative report concurrently to all parties and each party's advisor, if any, upon a party's signed information release for their advisor of choice. The parties thus have the opportunity to review the investigative report and provide a written response prior to or at the hearing. A copy of the completed investigative report also will be provided to

the Title IX Coordinator, and to the Hearing Officer(s) assigned for the hearing.

Presumption That Respondent Is Not Responsible

By law, it is presumed that the Respondent is not responsible for the alleged conduct unless the Respondent is determined to be responsible at the conclusion of the Complaint Resolution Process.

Standard of Evidence

All Complaint Resolution Processes will use the preponderance of the evidence standard.

The Live Hearing

Unless a Formal Complaint is dismissed, or the parties reach an Informal Resolution agreement, the University will hold a live hearing for all Formal Complaints subject to the Complaint Resolution Process.

Joint Hearing

In hearings involving more than one Respondent or in which two (2) or more Complainants have accused the same individual of substantially similar conduct, the default procedure will be to hear the allegations jointly. However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each Respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each Respondent with respect to each alleged policy violation.

Written Notice of the Hearing

The University will provide at least 10 days written notice to participants of the hearing (and the participants' advisors, if any, upon a participant's signed information release for their advisor of choice), including the date, time, location, names of all participants of the hearing (including the Hearing Officer(s), and all parties and participants in the investigation report), purpose of the hearing, a statement of the alleged conduct charges, and a summary statement of the evidence gathered.

Challenges to the Hearing Officer(s)

Either party may challenge the fairness, impartiality or objectivity of a Hearing Officer through submission of a written statement to the office coordinating the hearing within 4 days of receiving notice of the identity of the Hearing Officer, and must state the reasons for the challenge. The Hearing Officer will be the sole judge of whether he or she can serve with fairness, impartiality, and objectivity. In the event that the Hearing Officer recuses themselves, an alternative hearing officer will be assigned in accordance with

the institution's procedures.

Hearing Chair

When a panel of three (3) Hearing Officers is used, one Hearing Officer will be designated as the Hearing Chair. The Hearing Chair will rule on all procedural matters and on objections to exhibits or testimony of participants at the hearing. If a single Hearing Officer is used, as may be the case for certain Complaint Resolution Process hearings based on Hearing Officer availability or straightforward nature of the issues, then no Hearing Chair needs to be appointed, and the single Hearing Officer will rule on all procedural matters and on objections regarding exhibits and testimony of participants at the hearing. All Hearing Officers, including the Hearing Chair, may question participants who testify at the hearing, and are entitled to have the advice and assistance of legal counsel.

Access to Evidence

Each party will have access to all of the evidence from the investigation, including a copy of the completed investigative report.

Separate Rooms and Virtual Participation

At the request of either party, the University will allow the parties to participate in the hearing through technology enabling them to participate remotely or virtually from separate locations, and to simultaneously see and hear the participants answering questions.

Advisor of Choice

Each party may have an Advisor of their choice at the hearing. If a party does not have an Advisor, the University will provide one. Advisors are not permitted to actively participate in the hearing, except for asking questions of the other party and any other witnesses.

Each party may make opening and closing statements.

Privileged Information Excluded

No person will be required to disclose information protected under a legally recognized privilege. The Hearing Officer(s) must not allow into evidence or rely upon any questions or evidence that may require or seek disclosure of such information, unless the person holding the privilege has waived the privilege. This includes information protected by the attorney client privilege.

Cross-Examination of Witnesses

The Hearing Officer(s) may ask questions during the hearing of any party or witness and may be the first person to ask questions of any party or witness. Each party's Advisor will have an opportunity to ask relevant questions and follow-up questions of the other party and of any witnesses who participate in the hearing, including questions that challenge credibility. Each

Advisor has the right to ask questions directly, orally, and in real time at the hearing. The parties will not be permitted to personally ask questions of the other party or any witnesses that participate in the hearing. The Advisors may ask questions under the following procedure:

The Advisor will ask a question of the applicable participant.

Before the participant answers a question, the Hearing Chair or, when a single Hearing Officer is used, the Hearing Officer, will rule as to whether the Advisor's question is relevant to the alleged conduct charges.

If the Hearing Chair or Hearing Officer rules the Advisor's question is not relevant, then the Hearing Officer must explain any decision to exclude a question as not relevant. If the Hearing Chair or Hearing Officer allows the question as relevant, the participant will answer it.

Limitations on Questions Regarding Prior Sexual History

A Complainant's sexual predisposition or prior sexual behavior are not relevant except where questions and evidence about a Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the alleged conduct charged by the complainant or if the questions or evidence concern specific incidents of the Complainant's prior sexual behavior with the Respondent and are offered to prove the Complainant's consent of the alleged conduct.

Witness Statements Excluded If Not Subject To Cross-Examination

When reaching a responsibility determination, the Hearing Officer(s) may not rely on the statement of any party or witness who refuses or otherwise fails to submit to cross examination during the hearing. The Hearing Officer(s) may not, however, draw any inference regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions.

Recording

The hearing will be recorded in audio or audiovisual format and may be transcribed at the discretion of

the University. The recording or transcript, if applicable, will be available for the parties to inspect and review, upon request.

The Hearing Officer Determination

The Hearing Officer(s) will send a copy of the written determination concurrently to the parties, or appropriate administrator (for employee Respondents), and the Title IX Coordinator. The written determination must include the following:

The conduct alleged to constitute prohibited conduct under this Policy;

A description of the procedural history of the Complaint Resolution Process; The

findings of fact supporting the Hearing Officer(s)'s determination;

The conclusion(s) and a rationale as to whether the Respondent is responsible for each allegation;

Warning Level and the disciplinary sanctions, if applicable;

The remedies, if applicable, designed to restore the Complainant's access to the education program or activity; and

The University's appeal procedures and grounds for appeal.

SANCTIONS AND REMEDIES

The following sanctions and remedies may be considered by the Hearing Officer(s) in accordance with this Policy:

Possible Sanctions and Remedies for Student Respondents:

Educational training and/or counseling;

Deliver apology to those affect by the behavior/violation;

Activity or location restrictions;

Restitution or fines;

Loss of privileges or the addition of special conditions that need to be fulfilled; Housing suspension;

Restorative Justice;

Temporary or permanent suspension from the University for a Specific Time Period;

Dismissal/Expulsion;

Restriction on eligibility to represent the University at any official function or in any intercollegiate competition.

No shared classes or extra-curricular activities;

Withholding of grades, official transcript, and/or degree;

Bar against readmission, bar against enrollment, drop from one or more classes, and/or withdrawal from the University;

Suspension of rights and privileges, including but not limited to participation in athletic or extracurricular activities or ban from facilities; and/or

Assignment of Level 2 up to Level 5 for students from the Student Handbook Other sanction(s) or remedies as deemed appropriate under the circumstances.

Possible Sanctions and Remedies for Employee Respondents:

Verbal or written warnings;

Final written warning;

Performance Improvement Plan

Educational training and/or counseling;

Deliver apology to those affected by the behavior/violation;

Activity or location restrictions;

Restitution or fines;

Loss of privileges or the addition of special conditions that need to be fulfilled;

Restorative Justice;

Employment probation;
Cancellation or modification of contract;
Job demotion or reassignment;
Suspension with or without pay for a specific period of time;
Dismissal or termination;
Ineligible for rehire; and/or
Other sanction(s) or remedies as deemed appropriate under the circumstances

APPEALS AND ADDITIONAL PROCESSES PROVIDED TO STUDENTS AND EMPLOYEES

Appeals

Either party may appeal in writing to the Hearing Officer(s)'s determination regarding a Respondent's responsibility under the Complaint Resolution Process or from the University's dismissal of a Formal Complaint (or any allegations in the Formal Complaint) within 10 days of notification of such a determination, on the following bases:

A procedural irregularity that affected the outcome of the matter;

There is new evidence that was not reasonably available at the time of the determination regarding responsibility or dismissal was made that could affect the outcome of the matter; or

The Title IX Coordinator, investigator(s), or Hearing Officer(s) had a conflict of interest or bias for or against the parties (generally, or specifically in this matter) that affected the outcome of the matter.

The Appeals Hearing Officer must not be the same person as the Title IX Coordinator, investigator(s), or Hearing Officer(s) in the Complaint Resolution Process. Both parties will be notified in writing when an appeal is filed and the appeal procedures will apply equally for both parties.

Any non-appealing party (or the University) will have 7 days from the notification of an appeal to submit a written statement in support of the initial outcome. The decision-maker on the appeal will release a written decision within 21 days from the date of the appeal.

The Appeals Hearing Officer will release a written decision within 21 days from the date of the appeal to:

Affirm the Hearing Officer(s)'s determination regarding the Respondent's responsibility and affirm the disciplinary sanctions and remedies, if applicable;

Affirm the Hearing Officer(s)'s determination regarding the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable;

Remand the process back to the hearing stage for the Hearing Officer(s) to remedy any procedural irregularity or consider any new evidence;

Reverse the Hearing Officer(s)'s determination of the Respondent's responsibility and amend the disciplinary sanctions and remedies, if applicable; or

Affirm or amend the sanctions and/or remedies outlined in the initial determination issued.

Complaint Resolution Process Documentation

The University (through the appropriate office) will retain all of the documentation included in the Complaint Resolution Process for seven years, in accordance with state and federal records laws and University policy. All documentation of records is private and confidential to the extent possible under law. Student records of the Complaint Resolution Process are disciplinary records under FERPA. Employee records of the Complaint Resolution Process are subject to the Freedom of Information Act ("FOIA"), and included in the employee's official employment record.

Complaint Resolution Process Timeframe

The entire Complaint Resolution Process will be completed in no more than 150 days from the filing of the Formal Complaint. However, the circumstances may require a temporary delay in this timeframe and the University may extend this timeframe for good cause. In such an instance, the University will provide written notice to the parties of the delay or extension and the reason(s) for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The time period in this section does not include the period the parties attempted but failed to reach an agreement in the Informal Resolution Process, if applicable, and in such a case, the Complaint Resolution Process timeframe will be extended by the period the parties attempted to reach an Informal Resolution.

EMERGENCY REMOVAL AND EMPLOYEE ADMINISTRATIVE LEAVE

Emergency Removal

A Respondent may be removed from the University's education program, employment or activity on an emergency basis if, after an individualized safety and risk analysis, it is determined that such a removal is justified because the Respondent poses an immediate threat to the physical health or safety of an individual arising from the allegations of Sexual Misconduct. Under these circumstances, the Respondent will be notified in writing of the emergency removal and the Respondent will have an opportunity to immediately challenge the decision following the emergency removal.

ADDITIONAL CONDUCT VIOLATIONS UNDER THIS POLICY

False Information and False Complaints

Avila prohibits individuals from knowingly making false reports of sexual misconduct (including sexual assault and sexual harassment). Knowingly making false reports of sexual assault, dating/domestic violence and/or stalking constitutes a violation of the Student Code of Conduct and the Faculty/Staff Handbook and will result in disciplinary action. However, a report made in good faith is not considered false merely because the evidence does not ultimately support the allegation.

Retaliation

The University will not tolerate retaliation of any form against any applicant, student, employee, or other individual for reporting a violation of this policy or for assisting in the investigation of a complaint. Any person who retaliates against (a) anyone filing a report of Sexual Misconduct or a Formal Complaint, (b) the parties or any other participants (including any witnesses or any University employee) in a Complaint Resolution Process relating to a Formal Complaint, (c) any person who refuses to participate in a Complaint Resolution Process, or (d) any person who under this Policy opposed any unlawful practice, is subject to disciplinary action up to and including dismissal or separation from the University. If any participant in a Complaint Resolution Process believes they have been subject to Retaliation, they should immediately report the alleged retaliatory conduct to the Title IX Coordinator.

Interference with the Complaint Resolution Process

Any person who interferes with the Complaint Resolution Process is subject to disciplinary action up to and including dismissal or separation from the University. Interference with a Complaint Resolution Process may include, but is not limited to:

Attempting to coerce, compel, or prevent an individual from providing testimony or relevant information;

Removing, destroying, or altering documentation relevant to the Complaint Resolution Process; or

Knowingly providing false or misleading information to the Title IX Coordinator, investigator or Hearing Officer, or encouraging others to do so.

Failure to Report for Institutional Official

Institutional Officials knowingly fail to report all information concerning an incident the employee reasonably believes constitutes stalking, dating violence, sexual assault, or sexual harassment committed by or against a student or employee at the time of the incident, the employee is subject to disciplinary action, including termination.

For purposes of Failure to Report, the definition of sexual harassment, as defined under state law, is broader than the definition of sexual harassment under this Policy and is defined as: Unwelcome, sex-based verbal or physical conduct that:

In the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or

In the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary institution.

DISCRETION IN APPLICATION

The University retains discretion to interpret and apply this policy in a manner that is not clearly unreasonable, even if the University's interpretation or application differs from the interpretation of the parties.

Despite the University's reasonable efforts to anticipate all eventualities in drafting this policy, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express policy language, in which case the University retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

The provisions of this policy and the Hearing Procedures are not contractual in nature, whether in their own right, or as part of any other express or implied contract. Accordingly, the University retains discretion to revise this policy and the Hearing Procedures at any time, and for any reason. The University may apply policy revisions to an active case provided that doing so is not clearly unreasonable.